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SUBJECT: P-3 FINDS DPKO CONCERNED ABOUT KOSOVO END-GAME

Classified By: Ambassador Alejandro Wolff for Reasons 1.4 b/d.

¶1. (C) SUMMARY. UN U/SYG for Peacekeeping Guehenno and Europe Division Chief Harland shared with P-3 Deputy PermReps on November 9 their concerns about how Kosovo-related events will play out after the presumed failure of Troika talks. Guehenno and Harland have identified key issues -- whether and when the SYG pronounces a fundamental change in Kosovo circumstances requiring a change in the configuration of the international civil presence, international community reactions to a unilateral declaration of independence (UDI), timing of a UDI, the relative merits of a UDI versus other events as a potential trigger of a SYG pronouncement of changed circumstances, the role of a still-blocked Security Council, what the EU needs from the UN (without Council guidance) to deploy its rule of law mission, what vestigial UNMIK presence is appropriate should the EU deploy, how an uncertain EU and an uncertain UN can find common ground on a way forward. Although they believe SYG Ban and the Secretariat continue fundamentally to support the Ahtisaari

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plan for Kosovo, they see these and other issues as potentially placing the Secretary-General in uncertain legal and political waters as they unfold. END SUMMARY.

¶2. (C) In a frank November 9 session, UN Undersecretary for Peacekeeping Operations (DPKO) Jean-Marie Guehenno and DPKO Europe Division Chief David Harland exchanged views with the Security Council's Perm-3 on the way forward on Kosovo in the likely event the ongoing U.S.-EU-Russia Troika process fails to produce a political settlement by its December 10 end-date. Meeting participants included Ambassador Wolff and DepPolCouns, French Deputy PermRep Jean-Pierre Lacroix, UK Deputy PermRep Karen Pierce, and DPKO political officers Marco Bianchini and Dennis Besinic.

DPKO Would Like Clear Trigger for SYG Intervention  
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¶3. (C) Guehenno and Harland recognize that UNSCR 1244 gives the Secretary-General ongoing legal discretion to reconfigure the international civil presence in Kosovo, even to entirely replace UNMIK. Harland believes that exercising that discretion eight years into UNMIK's mandate, however, would require a "fundamental change in circumstances that would leave the SYG bound by necessity to make certain adjustments" on the ground. His preferred fundamental change would be a unilateral declaration of independence (UDI) coupled with imminent recognition of Kosovo sovereignty by a critical mass of states.

¶4. (C) Harland sees a first major area of uncertainty in EU and SYG expectations in the wake of such a pronouncement of changed circumstances by the SYG. He understands that the EU would like the pronouncement followed up by an SYG invitation to Brussels to deploy something like the rule of law mission (ESDP) and the office of international civilian

representative (ICR) envisioned in the Ahtisaari plan. He said that various Secretariat offices are considering the extent to which 1244 can be stretched to allow such an invitation to be made in the absence of coherent Security Council guidance. He said the UN Office of the Legal Advisor (OLA) had great concern about stretching 1244 so far as to allow the EU presences to leave the SRSG with no substantial role. On the other hand, he said OLA recognizes that the EU would have difficulty deploying these presences if they were to be answerable to an SRSG and the SYG. (NOTE. Harland's answer to these concerns, which he qualifies as personal, would be to have the SRSG/UNMIK remain primarily responsible for the international civil presence in the Serb-dominant north of Kosovo where UNMIK is generally welcome and where he thinks an EU presence might not be. END NOTE.)

15. (C) Pressed by Ambassador Wolff about whether UNMIK's strong indication that it has essentially completed its mandate might amount to a more obvious changed circumstance that a UDI that Russia and others would surely reject, Guehenno hedged. He argued that the more dramatic UDI/recognitions scenario might amount to a "clean break" that would allow a more clear UN-EU handoff, but allowed that the UN was unlikely to quickly walk out of Kosovo altogether in any event. (COMMENT. Guehenno and Harland both said vaguely that the SYG could react to the changed circumstances attendant to a UDI in keeping with his obligation to manage threats to peace and security in Kosovo. In our view, an SYG pronouncement of changed circumstances based on indications that violence might follow failure to recognize a UDI would deeply offend Security Council members and undermine efforts to demonstrate that Kosovo's development since 1999 warrants independence. END COMMENT.)

#### Security Council -- Making Blockage a Virtue

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16. (C) Harland said DPKO is agnostic about the timing of a UDI but wanted to coordinate with the Quint and EU about it. He was particularly concerned that the SYG and Secretariat establish that the Security Council remained blocked before the SYG made any pronouncement of changed circumstances. He said OLA had advised DPKO that a blocked Security Council increased the SYG's room to maneuver by default. (NOTE. Ambassador Wolff agreed that a blocked Council could work in favor of pro-Ahtisaari forces in that Russia would be forced to try to pre-empt SYG action by its own initiative and would be unable to muster the needed votes. END NOTE.) Harland wanted particularly to make sure there would be sufficient time between the Council's consideration of the Troika report and any UDI to allow the Council to reveal itself as deadlocked. France's Lacroix said the UDI would probably come within two months of the Troika report and that "we" are convinced we will have some influence to fine-tune the UDI timing. He also pointed out that the certainty of Council blockage determines that the SYG should avoid referring the UDI when it comes to Council consideration. (COMMENT. Although we agree that the SYG has more leeway in adapting UNMIK to Kosovo realities in the absence of Security Council guidance, we suggest that coherent EU/Quint advice should be offered before what Harland calls "neo-Stalinist" elements within the Secretariat take it upon themselves to guide the SYG. END COMMENT.)

#### UN/EU Coexistence in Kosovo

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17. (C) Lacroix admitted that there are "differing sensitivities within the EU on the question of UN/EU articulation" in Kosovo with a significant membership insisting that the EU presences could take shape only in reaction to clear UN decisions. Harland replied that that the UN and EU were in danger of falling into circular reasoning with the EU unable to deploy without UN decisions

that themselves relied upon dramatic developments including an imminent EU decision to recognize Kosovo's UDI. Lacroix offered only that Paris is "brainstorming on the relative UNMIK and EU roles as we go forward and is considering various double hating options." Harland said he appreciates the EU openness about its lack of internal clarity on its future presences in Kosovo, but he is becoming increasingly concerned about it, particularly about what he sees as lack of EU vision with respect to the rollout of the ICR presence and the ESDP role in the north of Kosovo.

18. (C) Guehenno said the calendar may dictate whether the EU or the SYG acts first in that EU foreign ministers meet on December 13/14 whereas the Security Council is unlikely to have considered the December 10 Troika report by then. (NOTE. Italy, which holds the December Security Council presidency, later tentatively set the Troika report for Council consultations on December 19. END NOTE.) Guehenno said he is "quite sure" the EU will take a position on Kosovo at the December 13/14 meetings. UK's Pierce said she looked for the EU to indicate in December a readiness to play a serious role in Kosovo and that this EU readiness could be activated immediately upon a UDI in January coupled with Kosovo's affirmation of its acceptance of the Ahtisari plan.

19. (C) COMMENT. Guehenno and Harland assure us that SYG Ban and the Secretariat remain supportive overall of the Ahtisaari plan, but their obvious concern with legal and political exigencies indicates they will need guidance as post December 10 events unfold. END COMMENT.  
Khalilzad